



Reprinted
January 25, 2005

HOUSE BILL No. 1051

DIGEST OF HB 1051 (Updated January 24, 2005 4:25 pm - DI 102)

Citations Affected: IC 22-2; IC 22-5; noncode.

Synopsis: Wage assignment and wage payment. Permits a wage assignment for payment for: (1) uniforms; and (2) tools and portable equipment. Increases to \$3,000 the amount of the maximum wage claim for which the commissioner of the department of labor may take an assignment. Repeals and relocates language making it a Class C infraction for an employer to sell merchandise or supplies to an employee for a price higher than to the public. Repeals chapter concerning the regulation of wage payments, which includes the following provisions: (1) a provision requiring an employer to pay employees in commercial paper; (2) a duplicate provision concerning frequency of wage payments; and (3) a provision containing outdated language concerning liens of laborers. Requires an employer to make payment to an employee, by semimonthly or biweekly payment, for all wages earned to a date not more than ten business days prior to the date of payment. Specifies that if an employee has left employment voluntarily and the employer does not know the whereabouts or address of the employee, that the employer is not subject to payment of liquidated damages for the failure to pay wages timely until: (1) ten business days have elapsed after the employee has made a demand for the wages; or (2) the employee has given the employer the employee's address. (Current law: (1) requires payment to be made for wages earned to a date not more than ten days prior to the date of payment; and (2) provides that in the event that the employee's whereabouts are unknown, the employer is not subject to payment of liquidated damages until ten business days have elapsed after the employee has made a demand for the wages due.)

Effective: July 1, 2005.

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January 4, 2005, read first time and referred to Committee on Employment and Labor.
January 13, 2005, amended, reported — Do Pass.
January 24, 2005, read second time, amended, ordered engrossed.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1051

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 22-2-5-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2005]: Every person, firm, corporation, limited
3 liability company, or association, their trustees, lessees, or receivers
4 appointed by any court, doing business in Indiana, shall pay each
5 employee at least semimonthly or biweekly, if requested, the amount
6 due the employee. The payment shall be made in lawful money of the
7 United States, by negotiable check, draft, or money order, or by
8 electronic transfer to the financial institution designated by the
9 employee. Any contract in violation of this subsection is void.
10 (b) Payment shall be made for all wages earned to a date not more
11 than ten (10) **business** days prior to the date of payment. However, this
12 subsection does not prevent payments being made at shorter intervals
13 than specified in this subsection, nor repeal any law providing for
14 payments at shorter intervals. However, if an employee voluntarily
15 leaves employment, either permanently or temporarily, the employer
16 shall not be required to pay the employee an amount due the employee
17 until the next usual and regular day for payment of wages, as

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established by the employer. If an employee leaves employment voluntarily, and without the employee's whereabouts or address being known to the employer, the employer is not subject to section 2 of this chapter until:

(1) ten (10) **business** days have elapsed after the employee has made a demand for the wages due the employee; or

(2) the employee has furnished the employer with the employee's address where the wages may be sent or forwarded.

SECTION 2. IC 22-2-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Any assignment of the wages of an employee is valid only if all of the following conditions are satisfied:

(1) The assignment is:

(A) in writing;

(B) signed by the employee personally;

(C) by its terms revocable at any time by the employee upon written notice to the employer; and

(D) agreed to in writing by the employer.

(2) An executed copy of the assignment is delivered to the employer within ten (10) days after its execution.

(3) The assignment is made for a purpose described in subsection (b).

(b) A wage assignment under this section may be made for the purpose of paying any of the following:

(1) Premium on a policy of insurance obtained for the employee by the employer.

(2) Pledge or contribution of the employee to a charitable or nonprofit organization.

(3) Purchase price of bonds or securities, issued or guaranteed by the United States.

(4) Purchase price of shares of stock, or fractional interests therein, of the employing company, or of a company owning the majority of the issued and outstanding stock of the employing company, whether purchased from such company, in the open market or otherwise. However, if such shares are to be purchased on installments pursuant to a written purchase agreement, the employee has the right under the purchase agreement at any time before completing purchase of such shares to cancel said agreement and to have repaid promptly the amount of all installment payments which theretofore have been made.

(5) Dues to become owing by the employee to a labor organization of which the employee is a member.

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(6) Purchase price of merchandise sold by the employer to the employee, at the written request of the employee.

(7) Amount of a loan made to the employee by the employer and evidenced by a written instrument executed by the employee subject to the amount limits set forth in section 4(c) of this chapter.

(8) Contributions, assessments, or dues of the employee to a hospital service or a surgical or medical expense plan or to an employees' association, trust, or plan existing for the purpose of paying pensions or other benefits to said employee or to others designated by the employee.

(9) Payment to any credit union, nonprofit organizations, or associations of employees of such employer organized under any law of this state or of the United States.

(10) Payment to any person or organization regulated under the Uniform Consumer Credit Code (IC 24-4.5) for deposit or credit to the employee's account by electronic transfer or as otherwise designated by the employee.

(11) Premiums on policies of insurance and annuities purchased by the employee on the employee's life.

(12) The purchase price of shares or fractional interest in shares in one (1) or more mutual funds.

(13) A judgment owed by the employee if the payment:

(A) is made in accordance with an agreement between the employee and the creditor; and

(B) is not a garnishment under IC 34-25-3.

(14) Payment for the purchase or maintenance of uniforms worn by the employee while performing duties for the employer.

(15) Payment for the purchase of tools and portable equipment used by the employee while performing duties for the employer.

SECTION 3. IC 22-2-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The commissioner of labor is hereby authorized to take assignments of wage claims of less than ~~eight hundred dollars (\$800.00)~~, **three thousand dollars (\$3,000)**, rights of action for penalties, mechanics and other liens of workers, without being bound by any of the technical rules with reference to the validity of such assignments; and shall have power and authority to prosecute actions for the collection of such claims of persons who, in the judgment of the commissioner:

(1) are entitled to the services of the commissioner; and ~~who, in~~

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his judgment;

(2) have claims which are valid and enforceable in the court.

(b) The commissioner shall have power to join various claimants in one (1) preferred claim or lien, and, in case of suit, to join them in one (1) cause of action.

SECTION 4. IC 22-5-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 6. Employer Sales to Employees

Sec. 1. An employer may not sell to an employee of the employer:

(1) merchandise; or

(2) supplies;

at a price higher than the price at which the employer sells the merchandise or supplies for cash to another person who is not an employee of the employer.

Sec. 2. A person who violates section 1 of this chapter commits a Class C infraction.

SECTION 5. IC 22-2-4 IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 6. [EFFECTIVE JULY 1, 2005] (a) IC 22-2-9-5, as amended by this act, applies to wage claims filed with the commissioner of labor after June 30, 2005.

(b) This SECTION expires January 1, 2006.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred House Bill 1051, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 22-2-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Every person, firm, corporation, limited liability company, or association, their trustees, lessees, or receivers appointed by any court, doing business in Indiana, shall pay each employee at least semimonthly or biweekly, if requested, the amount due the employee. The payment shall be made in lawful money of the United States, by negotiable check, draft, or money order, or by electronic transfer to the financial institution designated by the employee. Any contract in violation of this subsection is void.

(b) Payment shall be made for all wages earned to a date not more than ten (10) **business** days prior to the date of payment. However, this subsection does not prevent payments being made at shorter intervals than specified in this subsection, nor repeal any law providing for payments at shorter intervals. However, if an employee voluntarily leaves employment, either permanently or temporarily, the employer shall not be required to pay the employee an amount due the employee until the next usual and regular day for payment of wages, as established by the employer. If an employee leaves employment voluntarily, and without the employee's whereabouts or address being known to the employer, the employer is not subject to section 2 of this chapter until:

- (1) ten (10) **business** days have elapsed after the employee has made a demand for the wages due the employee; or
- (2) the employee has furnished the employer with the employee's address where the wages may be sent or forwarded."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1051 as introduced.)

TORR, Chair

Committee Vote: yeas 7, nays 4.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1051 be amended to read as follows:

Page 3, line 30, delete "or rental".

Page 3, line 30, after "and" insert "**portable**".

(Reference is to HB 1051 as printed January 14, 2005.)

CHENEY

HOUSE MOTION

Mr. Speaker: I move that House Bill 1051 be amended to read as follows:

Page 3, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 3. IC 22-2-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The commissioner of labor is hereby authorized to take assignments of wage claims of less than ~~eight hundred dollars (\$800.00)~~; **three thousand dollars (\$3,000)**, rights of action for penalties, mechanics and other liens of workers, without being bound by any of the technical rules with reference to the validity of such assignments; and shall have power and authority to prosecute actions for the collection of such claims of persons who, in the judgment of the commissioner:

(1) are entitled to the services of the commissioner; and ~~who, in his judgment,~~

(2) have claims which are valid and enforceable in the court.

(b) The commissioner shall have power to join various claimants in one (1) preferred claim or lien, and, in case of suit, to join them in one (1) cause of action."

Page 4, after line 5, begin a new paragraph and insert:

"SECTION 6. [EFFECTIVE JULY 1, 2005] (a) **IC 22-2-9-5, as amended by this act, applies to wage claims filed with the commissioner of labor after June 30, 2005.**

(b) **This SECTION expires January 1, 2006.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1051 as printed January 14, 2005.)

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